What is "interpersonal family law"?[1]

Yoshiaki Omura[2]

I Introduction-a case

At the beginning of this article, I would like to show a case[3] which is valuable to be mentioned in relation to the subject of this article.

A Japanese woman (the plaintiff) and a Pakistani man (the defendant) were married in 1982 in Pakistan in accordance with the form under the law of Sind state, and thereafter, they submitted the marriage certificate to the consul general of the Japanese Government located in Karachi. From immediately after their marriage, they had lived in Japan and had two children. After moving into Japan, the defendant had got into an idle habit, and moreover, he repeated eccentric conducts, such as alcoholic intoxication, indecent behavior, reckless driving, criminal offence, insulting attitude toward the plaintiff and the Japan or Japanese people etc. Both parties began to live apart in June, 1984, and the plaintiff hid herself from the defendant, sufferring from such eccentric conducts of the defendant. The plaintiff had tried to ask for divorce mediation at the family court, but she failed because the

defendant forced her to go back home. The defendant refused to divorce the plaintiff, and it is totally impossible to make a cool negotiation between the plaintiff and the defendant.

At last, the plaintiff brought an action for divorce at the Nagoya district court, Okazaki brunch, in 1987, and alleged that their marriage shall be divorced because it has already broken down. She also asked the court to appoint herself as the sole parent to exercise parental rights for the two children. Despite the lawful summons from the court, the defendant never appeared nor submitted any ducuments to the court.

The court, upon the grounds stated below, held that the marriage shall be dissolved and the plaintiff shall be appointed as the sole parent to exercise parental rights for the two children.

"According to Article 16 of *Horei* (Application of law (general) act), the law applicable to divorce is the law of the country whose nationality is retained by the husband at the time of occurance of the facts constituting the ground on which the divorce is sought. Thus the divorce in this case shall be determined in accordance with the law of Pakistan ..."

"(T)he defendant is of Muslim creed, and the Muslim law applies to all Muslim citizens in Pakistan."

"It is provided in Article 2, subparagraph 2 of The Dissolution of Muslim Marriages Act 1939, that a woman married under Muslim law shall been titled to obtain a decree for the dissolution of her marriage when the husband has neglected or has failed to provide for her maintenance for a period of two years."

"We thus ought to examine if the plaintiff married under the Muslim law. This remains left in obscurity, because we are unable to get further knowledge than we mentioned earlier ... regarding the form of the marriage under our consideration. (However,) had it not been so celebrated, we may still think it reasonable to apply

the said provisions *mutatis mutandis* to this case, considering the tenor and the spirit of these rules, prescribed in ... the said Act."

"It ought to be acknowledged that the facts alleged in this case come under the acticle which states, "the husband neglected ... to provide for her maintenance for a period of two years," and the facts also fall within the scope as well of item 1, alinea 1 of Article 770 of the Japanese Civil Code, stipulating "other serious causes making their marriage intolerable to continue."

"Turning to the matters concerning appointment of a parent who is to exercise the parental rights for the children, we think it proper to solve the problem by application, under Article 20 of *Horei*, of the law of the country whose nationality the father retains. It is because the question of who is to take the rights or to owe the obligations of care and custody of minors heavily depend upon the contents of such rights and obligations and upon the manner of exercising such authority [which shall be determined, as a rule, by application of the father's national law]. (Thus,) we may conclude the law of Pakistan, the national law of the father, is applicable ..."

"And we are of the opinion, considering the circumstances found ... in this case, that the plaintiff shall be appointed as the parent who is to exercise the parental rights for and in behalf of the two minors, because it is so provided in Article 17 of The Guardiands and Ward Act 1890 (Pakistan), that the courts may select a guardian on behalf of the welfare of minors, taking into consideration the circumstances of the case.(4)"

In this case, the applicable law is determined through the application of Article 16 and 20 of *Horei* (provisions prior to the 1989 amendment were applied). If the same case occurs under the present law, the applicable law would be the Japanese law through the application of new article 16 and 21. On the other hand, if the plaintiff was not a Japanese, and the matrimonial domicile was in Pakistan (such cases are sometimes reported), Pakistani law would be applied even under the present law. This is

a problem of interpretation of private international law (or conflict of laws), which attracts me somehow.

What I am most interested in is, however, the problem of determination of specific family law system which shall be applicable in this case. Pakistan is a Muslim country, but there are several sets of family law applicable there, i.e.,Muslim law, Christian law etc. Now the problem is which family law shall be applicable in specific case. Most of the countries which have plural family law system, in which people belonging to different groups, such as race, tribe, religion etc. are governed by different family laws (hereafter called "personally plural family law system"), have a kind of conflict of law rules in order to determine (or select) which family law shall be applicalbe, which we call "interpersonal law" (I call such rules in the area of family law "interpersonal family law").

In this case, the court determine the content of such rules through interpretation ("spirit" or "purpose") of the provisions of The Muslim Family Laws Ordinances 1961, and applied Muslim divorce law (the Dissolution of Muslim Marriages Act 1939) in order to divorce both parties. In my article[5] (case study), I pointed out two questions toward this part of judgment. The first one (personal law of the plaintiff, especially the spirit of "protection of wife", shall also be respected in this case) is a problem of public order (ordre public) which works only when foreign law is designated as applicable law, and it is not necessary to discuss over this point in this case because the Japanese law is applicable. However, concerning the second question (it is possible to say that the both parties married under Muslim law), I still think that the problem remains unsolved. This is a problem within the area of interpersonal family law, and this case study made me so interested in this area.

II Outline of interpersonal family law today

1. Plural family law systems

Today in many of the countries, family law is unified by codifications or case laws, especially in Europe. However, there are still (this word may not be correct, or shall I say "biased") many countries with plural family law systems. In some of them, people belonging to different area are governed by different family laws (territorially plural family law systems, such as The United Kingdom and The United States), and in others, people belonging to different race, tribe or religion are governed by different family laws (personally plural family law systems, such as Indonesia, India, Israel or Egypt). In both cases, when a family law suit is brought to the court in Japan, the court must determine which family law is applicable through a kind of conflict of law rules. I call such rules in cases of personally plural family laws "interpersonal family law". In Japan, Article 31 of *Horei* provides that the applicable law shall be determined, in principle, through "the rule of such country", which has (or shall be interpreted as having) the same meaning as above(6).

2. Interpersonal family law in the world

Just as mentioned above, there are many countries with personally plural family law systems today, but they are not equally distributed throughout the world. Now, I would like to show a rough sketch concerning distribution of such countries(7).

(1) East Asia

In this area, there are few countries with personally plural family law systems. The only one exception which I know is People's Republic of China. Chinese people are made up of many kinds of minority races in addition to *Han* race, and some of these minority people are recognized by the central government to be governed by their own law (somehow

different from the legislation by the central government) concerning certain family law matters.

(2) Southeast Asia

In this area, there are many countries with personally plural family law systems, such as Malaysia, Indonesia, Singapore or Philippines, because such countries have complicated racial or religious constitution (coexistence of plural races or religions[8]). We can also say that Muslim is one of the most powerful group in this area, and this fact has some influence upon family law systems of some countries.

(3) South Asia

In this area, there are some and very remarkable countries with personally plural family law systems, namely, India, Pakistan, Bangladesh and Sri Lanka. India and Sri Lanka have complicated religious sturucture, and each religious group has its own family law system. That makes family law of both countries plural and also very complicated. On the other hand, Pakistan and Bangladesh are founded through the independence from India, and both are "Muslim countries". Therefore, Muslim family law is recognized as a general law, and other family law (of minor religious groups) are applicable only in exceptional cases[9]. Moreover, in Pakistan at least, there exists a movement of "Islamization" even in the area of legal system, and any family law rules contrary to islamic idea tend to be thought as null and void. This tendency may have some influence upon interpersonal family law rules.

(4) Southwest Asia and North Africa

Most of the countries in this area are Muslim countries, and Muslim people are overwhelmingly majority here. As a result, of course, Muslim family law is widely thought to be the general law in most of the countries[10]. However, there widely exist minority people belonging to non-Muslim religions (such as Christianity, Judaism), and each sect has its own customary family law rules. These minority family laws

are, similarly to the case of Pakistan, applicable to the exceptional cases only (although the "islamization" trend or movement does not always strongly exist in all the countries). On the other hand, there are two remarkable exceptions in religious construction. In Lebanon, Muslim and Jude are almost equally influential groups. In Israel, Jewish people belonging to Judaism are majority and Muslim are, on the contrary, minority. Therefore, in both countries, Muslim family law is not recognized as the general law of the country.

(5) Middle and South Africa

Most of the countries in this area has particularly complex construction of race and religion, and it is supposed that most of them has personally plural family law system, but it is so difficult to obtain enough information about family law within this area. What I can do now is to examine as many specific cases (countries) as reasonably possible and analogize general trend from them.

(6) Other areas

In the areas not included in (1) to (5) above, there are few countries with personally plural family law system. However, there are, as far as I know, two countries which can be said as nearly exceptional cases, namely, Australia and New Zealand. In these countries, costomary family law of Aboriginal people (in Australia) or Maori people (in New Zealand) is recognized on case by case basis (such method is called "functional recognition"). However, recognition of such customary law does not limit or eliminate the application of general family law legislated by both countries or any state therein (in case of Australia). That is why I said "nearly".

3. Three patterns of interpersonal family law[11]

As I mentioned above, there are many countries throughout the world which have plural family law systems by religion, etc. The situation varies greatly from country to country reflecting the history and

backgrounds of each society. However, as far as I know, there are mainly three patterns of interpersonal family law.

(1) The first pattern is one in which plural family laws coexist, none of which is directly designated as general law. This pattern is widely seen mainly in Asia and Africa.

In many of the countries which had been colonies of Great Britain, interpersonal family law rules take the form of general provisions, and with respect to marriage law, self determination by the parties is respected. For example, in Nigeria[12], there exist three kinds of family law systems. These are English law "received" before independence, Nigerian legislation based mainly on English law, and a number of customary law systems. As for interpersonal family law rules in Nigeria, we have to distinguish between the rules applied in cases in which there is a conflict between a customary law and other law, and the rules applied in cases in which there is a conflict between different customary laws. When there is a conflict between customary and other law, customary law shall apply among natives and, if the application of the other laws will result in substantial injustice to either party, also between natives and non-natives. When there is a conflict within customary laws, the applicable law shall be determined by the intention of the parties. Similar examples of this pattern are also seen in Ghana[13] and Zimbabwe[14].

On the other hand, in some countries which had been colonies of France interpersonal family law rules take on a clearer form. For example, in Lebanon[15], marriage between a woman and a man belonging to different religions (interreligious marriage) are governed by the law of the husband's sect in principle, but the couple can select to be governed by the law of the wife's sect if they consent in writing. There are also some countries in which the husband's law prevails (such as Congo or Chad), the wife's law prevails (such as Senegal and Central Africa), or either the wife's or the husband's law prevails depending upon the wife's nationality (such as Niger)[16].

Although the historical background is quite different from these examples, Italy has a similar pattern of interpersonal marriage law. In this case, there are two sets of marriage law systems, secular law and canon law, and each couple can select one of them[17]. Canon law marriage has almost the same effect as secular law marriage, but there are some differences between them. For example, canon law marriage cannot be dissolved by divorce, but the court can only terminate its effect on civil law.

(2) The second pattern is one in which plural family laws coexist, one of which is directly designated as general law, with other family laws applicable only in exeptional cases.

This pattern exists in many of the muslim countries in Asia and Africa. For example, in Egypt[18], there are law for Muslims, Christians and Judes, but Muslim law is the general law, and when the parties do not belong to the same non-Muslim religion, Muslim family law applies even if none of them is a Muslim. Similar patterns are also seen in other countries, such as Syria, Jordan and Iraq.

Although quite different from these examples, the People's Republic of China has, in a sense, a similar pattern of interpersonal family law[19]. In its case, however, the general law is not Muslim law, but the law made by the government, Marriage Law Act of 1980, which succeeds the idea of the former Marriage Law Act of 1950. The Marriage Law Act is applicable to all the people in principle, but Article 36 thereof provides that local governments, such as self government districts, can legislate supplemental provisions for minority races to take into consideration the family situations.

In fact, in response to this provision, some local governments did make such supplemental provisions. Some of these provide the same rule as the Marriage Law Act, but some make exceptional provisions in relation to a certain minority race. For example, the Marriage Law Act provides that the minimum age for marriage is 20 for women and 22 for men, but according to the supplemental provisions in the Xinjiang

-Weiwuerzu, Tibet, Ningxia Huizu and Neimenggu self government districts, the minimum age is 18 for women and 20 for men[20].

Among such supplemental provisions, there are also some interpersonal family law rules. For example, the supplemental provisions of the Neimenggu self government district provides that a child born from a mixed marriage (marriage between parties belonging to different races) shall belong to the race determined by the mutual agreement of the parents[21]. Such provisions are made only in part and they cannot solve all the problems of interpersonal conflict of laws. However, considering the position of the Marriage Law Act as the general law of China, although some problems may still remain[22], it may be possible to say that the Act shall apply unless the opposite is clearly provided for by any supplemental provisions.

(3) The third pattern is one in which only one general family law exists but other family custom is partially recognized mainly on a case by case basis.

For example, in Aotearoa (New Zealand)[23], there is a family law of general application based upon the western sense of value. In recent years, however, New Zealand has witnessed a revival of interest in the customary law of the Maori people. There is a legislated code which expressly provides for respect of Maori custom, but generally speaking, recognition of Maori custom in the area of family law depends upon the exercise of judicial discretion.

Similar argument to the above, discretionary (or functional) recognition of customary family law, exists in the neighboring country of Australia[24]. But in this case, it seems that the relatively passive argument toward recognition of Aboriginal customary family law is relatively accepted.

4. Determination of "the law which has the most significant connection with the party"

It is not always clear what kind of interpersonal family law is applied

in a certain country. The above three qualifications may, in many cases, lead us to the correct answer about the substance of such rules. In cases like the following, however, they are not always enough.

The first kind of cases are those countries in which interpersonal family law rules exist in the form of general provisions, just like many countries in Asia and Africa which had been colonies of Great Britain. In such countries, if the applicable law cannot be specified by the intent of the party or parties, judges have to consider "justice, equity and good conscience" in the course of choosing the law. Such consideration must be done by referring to legislation, case law and other materials, but these materials sometimes cannot be adequately obtained.

The second kind of cases are those countries in which legislative policy is changing. Such changes can be seen especially in muslim countries. In Pakistan, for example, family law was originally almost the same as that of India, at least before its independence. However, especially in recent years, Islamization of the legal system is taking place, and this trend has had some influence on interpersonal family law rules.

The third kind of cases are those countries in which some or most of the interpersonal law rules are unknown to us, such as Indonesia, Sri Lanka, or Israel. In these countries, there is or remains some vagueness in the relationship between one personal law and another[25], or between one interpersonal law rules and another[26].

The fourth and last kind of cases are those countries in which interpersonal law rules (or a part of them) are based upon the intent of the parties. For example, imagine that a man claims, in a Japanese court, that he had been a Muslim in the past, but now he is not a Muslim any more because he has already abondoned his faith. In such a case, what shall we do in order to determine his religious belonging? When

one or both of the parties in a case are nationals of such countries as above, determination of appliable law is quite difficult[27]. There are some possible choices, such as, (a) to deem that one of them had converted at the time of, or after, the marriage, considering the marriage ceremony or their everyday life after marriage, (b) to designate both laws as applicable laws, and thereafter, deny the result of application of one of them because of violation of public order in forum, or, (c) to apply both laws. However, each method has some difficulty and they are not always adequate for us. We must continue our studies in order to find the most appropriate answer.

III What is "interpersonal conflict"?

1. Analysis of interpersonal family law patterns

On the basis of the above examinations, I would like to analyze the three patterns of interpersonal family law. In spite of the order in 3. of the above section, I will first examine the third pattern, and next the second pattern, and at last the first pattern.

(1) In case of the third pattern

In this pattern, general family law is always applicable, and a certain customary law may be sometimes recognized discretionally only. Therefore, there is no conflict between both laws.

(2) In case of the second pattern

In this pattern, there do exists conflict between one substantial family law and another, but such conflict is resolved by a certain interpersonal conflict of law rules, usually built in a certain substantial

family law.

(3) In case of the first pattern

In this pattern, there also exists conflict between plural family laws, and in most cases, a certain interpersonal conflict of law rules resolve them. However, sometimes it is so difficult for us to recognize such rules, because it is often difficult to obtain enough information about such rules. This is quite similar to the problem when foreign applicable law is unknown for us, and we can use its method here *mutatis mutandis*.

Then, are they any cases in which there is no interpersonal conflict of law rules (in a certain law area)? We can hardly imagine totally non-existence of such rule, because all the law must provide itself a certain rule about its own bounds of application. On the other hand, we do can imagine the situation in which plural interpersonal conflict of law rules coexist in one country, and there is no (enough) adjustment between them. In such a case, what does the government (or legislative body) do in order to solve such "conflict of conflict of law rules"? It is logically possible that the government do nothing, because, for example, two major ethnic or religious groups severly confront with each other in the country and it is impossible to mediate them. There is another possobility that the government (legislative body) think that it has no power to legislate uniform rule of interpersonal law, because such power falls exclusively into the hands of the Almighty (God in Christianity or Allah in Islam). It might be difficult to understand such idea from the viewpoint of western legal system which has come through the process of separation between law and religion, but it seems to be rather natural way of thinking in, for example, the Muslim world in general, where

law and religion are not separated from each other.

Now the problem is whether we can take into account the existence of the Almighty within the content of interpretation of law. Here I have little to say with enough confidence, but what I can say at least is that it may be questionable if the attitude of interpretation based upon the separation of law and religion is suitable to the religious family law.

2. Definition of "interpersonal conflict" as the object of interpersonal family law studies

As I already mentioned, there are three patterns of interpersonal family law. Then, what shall we think about definition of "interpersonal conflict" as the object of interpersonal family law studies?

If we define "interpersonal conflict" as "the situation in which there is no uniform interpersonal conflict of law rule or in which there is a conflict between interpersonal conflict of law rules", only the latter half of the third pattern shall be the object of interpersonal family law studies. However, such definition is too narrow to cover wide range of problems relating to interpersonal family law, and moreover, distinction between the above situation and "the situation in which the contents of foreign interpersonal conflict of law rules are unknown" is actually very difficult. It seems to be appropriate to include the third and the second pattern as a whole into the definition of "interpersonal conflict".

Then, how about the first pattern? In this pattern, as mentioned above, there is no "conflict" between substantial family laws, which tend to make us think that it is not proper to include it into the definition of "interpersonal conflict". However, case-by-case or functional recognition method has possibility (or potential) to be converted

to interpersonal conflict of law method, and, similarly (in a sense) to what I said relating to the third pattern, distinction between the two methods above is not more than relative one. It seems to be appropriate to include the first pattern into the definition of "interpersonal conflict", too.

IV Perspective of interpersonal family law studies

1. Significance of interpersonal family law studies

For what purpose do we study interpersonal family law? Most of the achievements concerning interpersonal family law studies have had one or both of the next two points of view; legal history or comparative law[28]. I do agree that these two are very important, and I am interested in historical or comparative studies[29]. However, there is one more point of view, which has more significance today, at least in Japan, i.e., conflict of laws (or private international law). In many countries with "continental" legal system in the area of family law, such as German, France and Japan, family law matters are governed by the national law or the law of habitual residence (residence habituelle) of the party (parties). If such law is territorially or personally plural, the applicable law shall be decided by the application of internal conflict of law rules, such as interstate law or interpersonal law. Examination of such law is indispensable to the process of deciding applicable law in these countries. Farthermore, if interpersonal law of a certain country is unknown to the court (including the case in which there is no uniform interpersonal law rules), the court must decide applicable law from its own point of view, considering the principle of "most significant connection (to the

case)". Here we must accumulate our knowledge of "history of interpersonal law" and "comparative interpersonal law". Many of the private international law scholars, and even interpersonal law scholars, have not expressed their recognition of this last point of view enough, but, or shall I say therefore, I think that I must emphasize this, and continue my studies.

On the other hand, in many countries with "anglo-saxon" legal systems in which law of the forum (lex fori) governs, situations may be quite diffirent from "continental" legal systems. However, in such countries, the court must be interested in personal law of the parties in the stage of recognition of foreign judgments. In such cases, interpersonal law studies may have enough significance also in such countries.

2. Obstacles to the study

In the course of studying interpersonal family law, I have experienced mainly three kinds of obstacles.

The first one is language problem. As we have already seen before, countries with personally plural family law systems are widely distributed around the world, and their official languages are of course different country by country, so it is necessary, or profitable at least, to study their languages[30]. At present, I have only a few languages available[31], and in order to master another language, it needs remarkable cost or time, but it depends on my effort.

The second one is difficulty in getting information. Although there are many remarkable works whose titles include "interpersonal law", when we search for the article concerning interpersonal family law, it

is not so easy to find them. It is because such articles are referred to respectively in several areas of law, such as "family law", "foreign law" or "private international law". In case of the articles concerning interpersonal family law whose title do not include "interpersonal law", the situation is much worse, because in order to find them, we have to read them one by one. Putting aside the problem whether "interpersonal law" shall be treated as an independent discipline[32], I hope that the word "interpersonal law" would be more widely used in every list of legal articles or periodicals.

The third one is gap between law and reality. Although it is not a problem peculiar to those countries with personally plural family law systems, but in such countries in particular, application of interpersonal conflict of law rules are often escaped, for example, through conversion by one of the parties to other religion. In such cases, it is questionable if such conversion is valid, and the answer to this question may also have rather large influence toward interpersonal family law studies. We must be careful not to forget such question.

3. Conclusion-interpersonal family law studies as an independent discipline?

In this article, I have discussed over "interpersonal family law studies". This name is widely used in the title of articles, but it is not treated as an independent discipline itself, and only treated as a part of comparative family law or as a related area of private international law[33]. Then, shall we establish, or try to establish, "interpersonal family law studies" or "interpersonal law studies" as an independent discipline? Parhaps we may recognize that such "independence" has a

positive influence toward development of studies, because it makes possible for more and more scholars to share the same forum in order to discuss the matter concerning interpersonal conflict of laws. It also has a merit in relation to the collection of literature(34).

Such merits themsefves are not enough to recognize "independence", and it needs neccesity to be independent from other areas of law, but I am sure that there is neccesity for the following reason. Phenomena of interpersonal conflict oflaws are, just as seen above in this article, recognized in many countries mainly in Asia and Africa, and even in many of the countries without such conflict within their legal system, the court may face such conflict in those cases including the party (parties) from the countries with interpersonal conflict of laws(35). I am sure that interpersonal law has not less expance and importance than private international law.

Then, what shall we do in order to establish "interpersonal family law studies" as an independent discipline? In fact, this is a difficult question for me, and I do not have enough answer. What I can say at most is that it is neccesaryfor us to share the basic purpose and common methodology, and it is also neccesary to exchange and accumulate knowledge of interpersonal family law and substantial family law of each country with personally plural family law system(36).

[notes]

(1) This article is based on my paper prepared in advance for a section meeting of the 1995 Annual Meeting of Research Committee on Sociology

of Law ("RCSL95").

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(3) See "Divorce-Petition by a Japanese Wife against her Pakistani Muslim Husband-Appointment of a Parent for Exercise of the Parental Rights for their Children-Application of (Pakistani) Muslim Law" 32 The Japanese Annual of International Law 157 (1989). I have already published a case study, namely, "*Nihonjin, Pakisutanjin-kan'no Rikon oyobi Shinkensha shiteino Junkyohou* (Applicable law concerning divorce of a Japanese wife and a Pakistani husband, and concerning determination of the person to have parental rights)" 1048 *Jurisuto* (Jurist) 111 (1994).

(4) I quoted this part from page 157 to 159 of The Japanese Annual of International Law (supra note 3).

(5) See Omura, supra note 3 (1048 Jurist 111).

(6) Article 31 is, by majority of the scholars, interpreted to be the rule to determine "personal law" of each party (the law to which a person belongs), but it shall be treated as a rule to determine the applicable law to "each case" (certain legal relationships) rather than personal law of "each party".

(7) The statement below is nothing more than quite a rough sketch, based upon my studies concerning several countries (examples) and information of some other contries relating to their ethnicity, religion or other cultural or social relationships.

(8) For example, coexistence of Chinese, European and Malay people, or coexistence of Muslim and Christian.

(9) For example, when both (or all) parties are non-Muslim, and belong to the same sect. "Sect" means smaller group within "religion", such as Greek Orthodox Armenian (in Christianity) or Shi'i (in Islam).

(10) The only one exception that I know is Turkey, which has abondoned Muslim family law and introduced the Civil Law of Switzerland in the revolution of 1920's.

(11) Concering the following statements generally, see Y.Omura, *Jinsai Kazokuhou Kenkyu Josetsu* (Introduction to interpersonal family law), 9 -2 *Chuo-Gakuin Daigaku Chuo Kagaku Kenkyujo Kiyou* (Bulletin of the Research Institute Chuo-Gakui n University) 103ff (1994, in Japanese) ;

and also see Z. Okamoto, 133 *Jurisuto Bessatsu* (Jurist, separate volume) 16-17 (1995, in Japanese).

(12) See H.Boparai, The customary and statutory law of marriage in Nigeria, 46 RabelsZ 530ff, at 531, 542-544 (1982).

(13) See K.Lipstein and I. Szaszy, Interpersonal Conflict of Laws, Int'l Encychl. Comp. L. vol. 3, chap. 10, at 22-23 (1985).

(14) See T. W. Bennett, Conflict of laws-The application of customary law and the common law in Zimbabwe, 30 Int'l Comp. L. Q. 69 (1981).

(15) See A. E. El-Gemayel(ed.), The Lebanese Legal System 268-269 (1985) ; Okamoto, supra note 11, at 16-17.

(16) See Okamoto, supra note 11, at 17.

(17) In the middle of 1960's, almost 99 percent of all the marriages were canon law marriage (see R. Koike and C. Matsuura, *Itaria Shin Rikonhou* (New Italian Divorce Act), 44-6 *Hougaku Kenkyuu* (Law Studies) 76 (1971, in Japanese)), but I do not have any recent information.

(18) See Okamoto, supra note 11, at 16.

(19) See Y. Nomura, *Chugoku Minpou Tsuusoku Shikougono Joukyou to Chibettono Kon'in Kitei* (Situation after enforcement of Civil Law (General) Act of China and marriage law in Tibet), 922 *Jurisuto* (Jurist) 43ff (1988, in Japanese) ; M. Kiyokawa, *Chugoku Shousuu Minzokuno Kon'in Kiteino Shomondai* (Some problems around marriage provisions of Chinese minority race), 23-2 *Sandai Hogaku* (Law Bulletin of Kyoto Sangyo University) 22ff (1989, in Japanese) ; M. Kiyokawa, *Chugoku Shousuu Minzokuno Kon'in Kitei* (Marriage provisions of Chinese minority race), ibid., 123ff (in Japanese) ; K. Nishimu-ra, *Chugoku Shousuu Minzokuno Kon'in Kanshuuto Hou* (Marriage custom and the law of Chinese minority race), 42-2, 3 *Handai Hougaku* (Law Bulletin of Osaka University) 165ff (1992, in Japanese).

(20) See Article 5 of the Marriage Law Act, Article 2 of the supplemental provisions of the Xinjiang-Weiwuerzu self government district, Article 1 of the supplemental provisions of the Tibet self government district, Article 2 of the supplemental provisions of the Ningxia-Huizu self government district, and Article3 of the supplemental provisions of the Neimenggu self government district.

(21) See Article 5 of the supplemental provisions of the Neimenggu self government district.

(22) There is a problem whether in relation to the minority races which have no supplemental provisions of their own the Marriage Law Act shall be applied without any exceptions. Moreover, there are some words whose meaning is not clear enough (for example, "minority races within this self government district" in Article 10 of the supplemental provisions of Xinjiang-Weiwuerzu self government district).

(23) See B. Atkin and G. Austin, Cross-cultural Challenges to Family Law in Aotearoa/New Zealand (Report in the 8th world congress of the International FamilyLaw Association 1994, not published).

(24) See Patrick Parkinson, Multiculturalism and the regulation of marital status in Australia (Report in the 8th world congress of the International Family Law Association 1994, not published).

(25) For example, relationship between Roman-Dutch law and other personal law in Sri Lanka, or between Jewish law and other personal law in Israel.

(26) For example, relationship between the Regulation on Mixed Marriages of 1898 and the Marriage Law of 1974 in Indonesia.

(27) For example, let us think of the following case. A Christian wife and a Muslim husband, both nationals of a certain country (X), are going to divorce. In X, christians and muslims are governed by different personal laws. Christians may not marry people belonging to any other religion, and they can only divorce by court judgement. Muslim men may marry Christian women, and they can repudiate their wives by means of a simple declaration (called "talaq"). Interpersonal family law rules are unknown. Now, what law shall apply to them?

(28) See Omura, *Jinsai Kazokuhou Kenkyu no Kadai* (Tasks of Interpersonal Family Law Studies), 34-3 *Azia Afurika Kenkyu* (Quarterly Bulettin of Third World Studies) 37ff (1994, in Japanese).

(29) See Omura, supra note 11, and also see Omura, *Indo Indonesia Jinsai Kazokuhou no Enkaku* (History of Interpersonal Family Law in India and Indonesia), 35-2 *Azia Afurika Kenkyu* (Quarterly Bulettin of Third World Studies) 62ff(1995, in Japanese).

(30) For example (other than European languages), Arabic, Malay or Heblew.

(31) I can speak and read Japanese (mother language) and English, and I can read Chinese, French and German a little, but other languages are not

available for me.

(32) See the next "3" in the text.

(33) I am arguing on the basis of the situations in Japan, at least, or in most of the other countries. I am not sure if there is no exception, and if thereis, I really hope that I could get information about it.

(34) See the above "2" in the text (the second obstacle to the interpersonal family law studies).

(35) In Japan for example, number of family disputes including the parties from countries with personally plural family law systems has gradually increasing, and in such cases, knowledge of interpersonal family law is indispensable to solve the dispute.

(36) In particular, it is difficult to obtain the newest information concerning family law of AALA counties. We must overcome this problem in order to update our studies.